



March 6, 2001

The Honorable John McCain  
United States Senate  
241 Russell Senate Office Building  
Washington, DC 20510

Dear Senator McCain:

The American College of Osteopathic Emergency Physicians (ACOEP) represents the nation's 2,700 osteopathic emergency physicians. As President, I write to recognize your efforts to protect the rights of patients and rein in the abuses of managed care. To this end, we are pleased to let you know that your bill, the "Bipartisan Patient Protection Act of 2001" (S. 283/H.R. 526), encompasses the principles of managed care reform legislation the ACOEP supports.

The American College of Osteopathic Emergency Physicians is especially pleased with your key patient protection provision which allows patients to access the nearest emergency department regardless of whether or not that emergency department or hospital participates in the patient's managed care provider panel. This access is guaranteed without needing prior authorization. Your bill also allows patient to determine whether or not their condition is an emergency under a "prudent layman" standard. This is critical in cases of true emergencies. After the initial examination or stabilization of the patient, a determination can be made by the treating emergency physician and health plan whether that patient can be safely transferred to an in-network facility, be admitted to the out-of-network hospital for post-stabilization treatment, or be released altogether. This determination must be made based on medical necessity with significant weight being given to the treating emergency physician's professional medical judgement. Again, the Bipartisan Patient Protection Act of 2001 protects this critical patient right.

Over the last two decades, managed care has become less and less interested in delivering quality healthcare to patients. Instead, the focus seems entirely on the bottom line. It is time to bring the focus back to our patients and away from HMO profits. Employers and patients are tired of not receiving the care they are promised, pay for, and deserve. The Bipartisan Patient Protection Act of 2001 will help bring the quality back into healthcare and allow osteopathic physicians to care for our patients in accordance with the high principles guiding our profession.

Further, we are encouraged by the patients' rights principles recently released by President Bush. I would note that many of the President's positions also are reflected in American College of Osteopathic Emergency Physicians' policy. For instance, while the ACOEP is determined to have HMO liability included in any managed care reform package which becomes law, we also are committed to protecting employers from liability when they do not engage in medical decisions. We believe S. 283 accomplishes this mutual goal. We would not serve our patients well if managed care reform led to a decrease in the availability of health insurance.

Additionally, we would like to see medical malpractice reform addressed during this Congress. The American College of Osteopathic Emergency Physicians feels it is relevant to have common sense and fiscally responsible caps placed on medical malpractice awards. Such caps would be an effective tool in the battle to control the spiraling costs of health care. We stand steadfastly behind passage of patients' bill of rights, not a lawyer's bill of rights. Without true medical malpractice reform, trial lawyers gain more access to the health care system and that would be detrimental to patients and osteopathic emergency physicians alike.

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The American College of Osteopathic Emergency Physicians, however, is firmly committed to the passage of the Bipartisan Patient Protection Act and would not want medical malpractice reform or other issues to impede its enactment.

Again, thank you for your leadership on this critical issue. We are encouraged by the broad bipartisan support your legislation has received. The ACOEP pledges to work with you, all other Members of Congress, and the White House to ensure swift enactment of meaningful patient protection legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph J. Kuchinski, D.O.", with a stylized flourish at the end.

Joseph J. Kuchinski, D.O., FACOEP  
President,  
American College of Osteopathic Emergency Physicians

JJK:jw

cc: The Honorable John Edwards  
The Honorable John Dingell  
The Honorable Greg Ganske  
The Honorable Edward Kennedy